AGP®
Ag Processing Inc

197101

RECEIVED
FEB 29 2000
MAIL MANAGEMENT
STB

February 28, 2000

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423

RE: EX PARTE NO. 582
Public Views on Major Rail Consolidations

Dear Secretary Williams,

Enclosed please find the signed original and ten copies of the above matter as well as a 3.5 inch IBM compatible floppy diskette in Microsoft Word '97compatible to WordPerfect 7.0 as required.

Sincerely,

Terry J. Voss

Terry J. Voss
Sr. Vice President Transportation

12700 West Dodge Road P.O. Box 2047 Omaha, NE 68103-2047 (402) 496-7809

197/01

RECEIVED
FEB 29 2000
MAIL
MANAGEMENT
STB

BEFORE THE SURFACE TRANSPORTATION BOARD

Office of the Secretary
FEB 29 2000
Part of
Public Record

EX PARTE NO. 582

Public Views on Major Rail Consolidations

Submitted By:
Terry Voss
Sr. Vice President Transportation
Ag Processing Inc
12700 West Dodge Road
P.O. Box 2047
Omaha, NE 68103-2047

My name is Terry J. Voss. I am Senior Vice President of Transportation for Ag Processing Inc. (hereinafter referred to as AGP) located at our corporate office in Omaha, Nebraska. I have been employed by AGP for eight years and in agricultural transportation for 26 years.

AGP is the largest cooperative processor of soybeans in the world. We operate nine soybean processing plants which make soybean meal and crude soybean oil; three vegetable oil refineries and will open the fourth one this fall; one corn processing plant which makes ethanol and distillers grains; several feed mills throughout the U.S. and Canada; one soyflour facility; and several grain elevators in the Midwest and upper Midwest. We operate a coal fired generating plant. We also purchase and resell grain from our cooperative member owners. We ship and receive all of the above products by rail, truck and barge.

AGP ships and receives in excess of 75,000 carloads of grain and grain products annually. We primarily ship products in bulk utilizing coal cars, covered hopper cars, and tank cars. We originate and/or terminate shipments on every Class I railroad in the U.S. and Canada as well as Mexico. We also originate, ship on, or terminate on several regional and shortline railroads. Our annual transportation costs exceed $100,000,000.00.

AGP is also a member of some of the trade organizations that are providing testimony in this proceeding, but find the issue important enough to AGP's future that we need to submit our own statement; specific to our own company, our 280 farmer elevator members and their 300,000 farmer owners.

The term "merger" in this document is meant to include mergers, unifications, purchases and consolidations.

AGP has reservations about the rail mergers that have taken place and does not believe that more mergers will be healthy for the agricultural and food industry. There has been a lot of focus lately on the remaining two eastern carriers, the western carriers and the Canadian railroads as there should, since there were 44 Class I carriers in 1980, the year of the Staggers Act. Today, only seven large railroads remain, which includes the KCS, and we don't believe there is a demonstrated need to further reduce this number. The mergers that created these mega railroads have not proven to be a success for all shippers. For years we operated with more Class I carriers than today and in an environment of more competition and in some cases better service than exists today. The mergers of the past 20 years have eliminated competitive routes and destroyed traditional markets and marketing strategies that took years to develop. Mergers have also changed traditional traffic flows from our processing plants and refineries, resulting in fewer and fewer end user choices and limited growth opportunities.

Prior to the previously approved mergers, a shipper in Iowa could ship to the Gulf from the Chicago & Northwestern or Burlington Northern using one of several competitive options. As the CNW tracks ended at Kansas City, the route used to be CNW – Kansas City and then to several connecting railroads beyond. The connecting railroads beyond were the Southern Pacific, the Missouri Pacific and the Missouri-Kansas-Texas, which are all now part of the Union Pacific. Other connecting options were the St. Louis San Francisco or the Santa Fe, which is now part of the BNSF. The only route available today from former CNW origins is the Union Pacific and from former BN origins the route is BNSF. All of the above options have been eliminated due to mergers. After acquiring the former SP, CNW and MKT tracks, the UP, in order to protect their new franchise, ceased publishing rates over Kansas City via BNSF. BNSF, to protect their new franchise, did the same from its origins, likewise holding its traffic on its own line over Kansas City. All of the former competitive routing options over Kansas City were eliminated, regardless of which was the most efficient.

In order to minimize the impact of rail mergers on our production, we have been forced to participate in alternative markets, not necessarily of our choice, resulting in increased costs and reduced earnings. Plants and facilities were originally built to be able to market and ship our products to selected markets. Mergers and the elimination of competitive routes and gateways have reduced our ability to market in some areas, thus voiding the geographic reason that caused the plant to originally be built. Mergers have enhanced railroad power over shippers. Railroads now have the power to tell us where to market and who our customers will and won't be, creating the absence of choice. Railroads today may often be the determining factor in who prospers and who survives in the marketplace. For instance, prior to the Conrail acquisition we shipped soybean meal from Iowa over the Chicago gateway to Conrail and then to destinations in the East. Since implementation of the Conrail purchase, soybean meal rates from the Chicago gateway have increased $450.00 per carload. This has virtually eliminated our participation in that market, resulting in increased costs to the farmer, greater risk of production, and has left us searching for other viable markets.

We have supported some of the previous mergers. Early on the concept of a few mergers made some sense for both the shipper and the carrier. We supported one merger in particular because we were promised that another carrier would be able to operate over the tracks of one of the merged carriers, enabling them both to serve one of our facilities. The Interstate Commerce Commission approved that condition in the merger. Years later, we are still waiting for this to happen. If the promising carrier were serving us today, we would be more competitive and have more choices in the marketplace. We supported this merger on that condition plus other competitive issues, and obviously we were wrong and wronged. We would not support that merger today.

There have also been other unfulfilled promises; that the mergers would bring better service; workable trackage rights; increased competition; and reduced costs, all of which would create lower transportation costs allowing all parties to benefit from these mergers.

With the exception of the CN-IC unification, the industry went through trying times in the service area following major mergers. The STB had to be involved to ensure that freight kept moving. Many shippers suffered economic damage during the startup and following months of mergers in recent years. It is still likely, that given a normal winter and export market for Ag commodities, that the transportation industry would experience additional railroad operating problems. It is already possible that railroads have become too large to effectively and efficiently manage their house and serve the shipping community.

A Class I CEO was recently quoted as saying that this is now a seller's market and rates could be increased by four or five percent as compared to a more normal 1.5 to 2.5 percent. He also stated that tariff rates would be used more as they can be increased quicker than confidential contracts. I suggest that we would not be testifying here today if rail mergers had: 1) increased competition and 2) improved service for all concerned.

Mergers not only have impacted shippers but also smaller regional and short line railroads. These carriers are critical to the survival of many companies, as they provide a much-needed service link to thousands of shippers. The larger regionals, such as the I & M Rail Link, Wisconsin Central and the Kansas City Southern which is a Class I, provide not only essential service but competitive service in the Heartland and need to be protected. Perhaps these carriers should operate the trackage rights that are seldom used, with the STB setting competitive operating fees to preserve competition and choice.

Class I Railroads and the Association of American Railroads have stated that since the partial deregulation of railroads, rates have decreased and that the mergers are working as intended. As we see it, mergers have placed a new, substantial debt burden on railroads and have caused or accelerated railroad efforts to squeeze greater contributions from shippers.

Freight rates are not the only factor in transportation costs. In the grain business the best rate package is usually for the largest unit train with the fastest loading capability. But the most competitive rate comes with a price. Fast loadout equipment with scales and track to accommodate 100 car unit trains can easily cost over two million dollars. This becomes part of our overall transportation costs. Railroads show improved efficiencies from origin to destination, but their improved efficiencies do not reflect full true, rising, rail transportation cost. These extra costs are borne by the farmers, the shipper and the end user.

Shippers are now providing a larger percentage of the freight cars than in the past, which is another transfer of shipping cost from railroad to shipper. Ten years ago shippers provided 39 percent of the freight cars. In 1998, (the latest records available) that number has increased to 52 percent of the freight cars in service. In fact, the private car fleet is now larger than that of all the Class I railroads combined. In 1980, just prior to the Staggers Act partially deregulating railroads, the private fleet was only 27 percent of the Class I freight car fleet. In the past five years our company has doubled its investment in freight cars and our costs for cars exceeds $15,000,000.00 annually. This increases our net transportation costs but allows the railroad to show improved efficiencies. Rail freight rates cannot be the only cost or benchmark when calculating transportation costs; our costs are increasing, we are paying for perceived rail efficiencies resulting from mergers.

Past mergers alone, without additional rail consolidation, will continue to diminish the economic and strategic value of many of our plants. Mergers have already destroyed the geographic reason of where and why production plants are located. These are our investments, not the railroads. The merging carriers will continue to maximize their franchise and traditional markets will continue to change, increasing costs to the farm, shipper and end user. Railroads will continue to dictate origin to destination routes to maximize their system, eliminating choice and competition.

Before any additional consolidation in the railroad industry is considered, a complete study and evaluation of merger related market changes and previous trackage rights and conditions should be completed. The Board should specifically examine whether the points that went from two railroads to one are being served adequately and competitively by the other carrier as conditioned by the ICC and STB; and whether the trackage rights agreed to or granted in the previous mergers are being fully utilized and to what extent; and whether shippers designated to receive trackage rights service are being competitively served by the other designated railroad. The extent to which markets have been divided, segmented or circumvented by railroads should also be investigated and addressed.

We would not propose re-regulation of the rail industry. However, we would request that the promises made by the already merged carriers be kept. If that is an impossible request, then we request that the KCS, I & M Rail Link, Wisconsin Central and or other short lines be allowed to keep these promises at competitive operating fees. Further more we suggest that railroads have become too large to be effectively and efficiently managed without raising the cost of transportation to the farmer, shipper and end user. We also question foreign ownership of a vital rail link.

And most importantly, improved service needs to be assured and enforced, while competition and choice for the shipper is preserved.

Respectfully submitted,

Terry J. Voss

Terry J. Voss